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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/702,388	10/31/2000	Albert D. Edgar	24012-3	1478

7590 10/14/2003

Eastman Kodak Company
Patent Legal Staff
343 State Street
Rochester, NY 14650-2201

EXAMINER	
GABOR, OTILIA	
ART UNIT	PAPER NUMBER
2878	

DATE MAILED: 10/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)	
	09/702,388	EDGAR ET AL.	
	Examiner	Art Unit	
	Otilia Gabor	2878	

--The MAILING DATE of this communication appears on the cover sh t with the correspond nc address --

THE REPLY FILED 15 August 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *see attached sheet.*

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☐ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: *1-3,5-12 and 14-36*.

   Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☒ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). *10/18/2003*.

10. ☐ Other: _____

Response to Arguments

1. Applicant's arguments filed 08/15/2003 have been fully considered but they are not persuasive. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both requirements are present: 1) it is common knowledge in the field of radiation detection that presently there are detectors that are tuned to detect radiation of a very particular wavelength and be non-responsive to any other radiation and that there are detectors, such as the one disclosed in Edgar, that are alone capable to selectively detect both visible and infrared radiation. It is also common knowledge in the art that for the second type of detection (selective detection) the one detector used needs to be separately tuned to the first and the second radiation (i.e., first tuned to detect visible and then IR or vice-versa) and thus no simultaneous imaging is possible. It is also well known in the art that when two different radiations need to be detected simultaneously two detectors need to be present, one tuned to visible the other tuned to IR detection. Therefore, since the different detection configurations and their advantages are well known in the art, substituting one for the other is just a matter of design choice and a matter of suitability for the particular use. Thus, though Edgar captures visible and IR

images separately, capturing them simultaneously does not require an inventive step for it is common knowledge in the art to do so; 2) the second reference (Ross) presents the advantage of being able to capture the image of an object wherefrom both visible and infrared light is emanated in order to detect characteristics of the object that are not visible to the naked eye and thus to be able to get a corrected final image of the object, and since the main goal in Edgar is practically the same, namely, that the final scanned image is a true, representation of the object, there is ample motivation to combine the references to obtain the most advantageous way of getting the same final result.

2. In response to applicant's argument that the Ross reference is nonanalogous art because one who was concerned about correcting a defect in an image storing medium would have not looked in the Ross reference, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, both references are concerned about obtaining a final image that contains all image characteristics including the defects by using two different lights and comparing the two. Thus the fact that the actual images are not the same (one is contained in a film that is scanned using the different lights and the other is a free standing object) bears no distinguishing weight because the portion that is considered inventive is not how the objects to be imaged are positioned but how the lights are captured after they leave the object. And thus the one having ordinary skill in the art would have looked in any field that considers the simultaneous detection of

radiations having different wavelengths coming from an object to be imaged, and not only in the field of surface scanning of a film containing an image.

As such, the claims still stand rejected.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Otilia Gabor whose telephone number is 703-305-0384. The examiner can normally be reached on Monday-Friday between 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Porta can be reached on 703-308-4852. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

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DAVID PORTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800